

**EXHIBIT E**

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**From:** Lindholm, Jean (LABOR) [<mailto:Jean.Lindholm@labor.ny.gov>]  
**Sent:** Wednesday, November 09, 2011 4:45 PM  
**To:** Sheinkin, Sara D.  
**Subject:** FW: How Many Uniforms is Enough?

To qualify for the wash-and-wear exception to uniform maintenance pay:

If a freshly laundered uniform is needed on each workday, then yes, "consistent with the average number of days per week worked by the employee" would mean equal to the average number of days worked.

If an employer requires more frequent changes of uniform than once daily, "consistent with" would not mean equal to the average number of days worked and more uniforms would have to be provided.

If the nature of the uniform, the work performed and the employer's standards do not require a freshly laundered uniform on each workday, and instead it is appropriate for the employee to wear the uniform more than once before washing, then "consistent with" would not mean equal to the average number of days worked and fewer uniforms could be provided.

For example, if uniforms can generally be worn twice before washing, the employer can qualify for the wash-and-wear exception by providing a number of uniforms equal to at least half the average number of days worked by the employee.

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**From:** Sheinkin, Sara D. [<mailto:ssheinkin@littler.com>]  
**Sent:** Thursday, November 03, 2011 2:43 PM  
**To:** Lindholm, Jean (LABOR)  
**Cc:** Salas, Lorelei (LABOR)(MOVI)  
**Subject:** How Many Uniforms is Enough?

I am hoping you can assist me with another issue that is coming up frequently for companies in the hospitality industry.

The question is how many uniforms an employer must provide to its employees in order to qualify for the "wash and wear" exception under 146.1-7 of the Hospitality Wage Order. The regulation states that in order to qualify for the exception, the employer must provide an employee with required uniforms "in sufficient number...consistent with the average number of days per week worked by the employee." In this context, what does "consistent with" mean? Does it mean that the employer must provide the employee with a uniform equal to the average number of days worked by the employee per week, so that if an employee, on average, works 5 days per week, the employer must provide the employee with 5 uniforms. Or is a number less than 5 suitable?

Thank you for your assistance.

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